

SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

ANNUAL REPORT
1997-1998



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STATE DOCUMENTS

STATE OF SOUTH CAROLINA
Administrative Law Judge Division

Marvin F. Kittrell
Chief Judge

H. Lee Smith
Clerk



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1205 Pendleton Street
Post Office Box 11667
Columbia, South Carolina 29211

June 15, 1999

TO: The Honorable James H. Hodges
The Honorable John W. Drummond
The Honorable David H. Wilkins

RE: Annual Report for Fiscal Year 1997-1998

On behalf of the Administrative Law Judge Division, I am pleased to provide you with this report of the Division's activities for the past fiscal year. This was our fourth full year in operation.

This short document provides a narrative description of our mission, activities and workload. Our efforts in these areas underscores our commitment to providing the citizens of this State a neutral forum for the resolution of their disputes with state agencies.

Respectfully submitted,


Marvin F. Kittrell

MFK/hls

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INTRODUCTION

The purpose of the Administrative Law Judge Division is to provide a neutral forum for fair, prompt and objective hearings for any person affected by an action, or proposed action of certain agencies of the State of South Carolina.

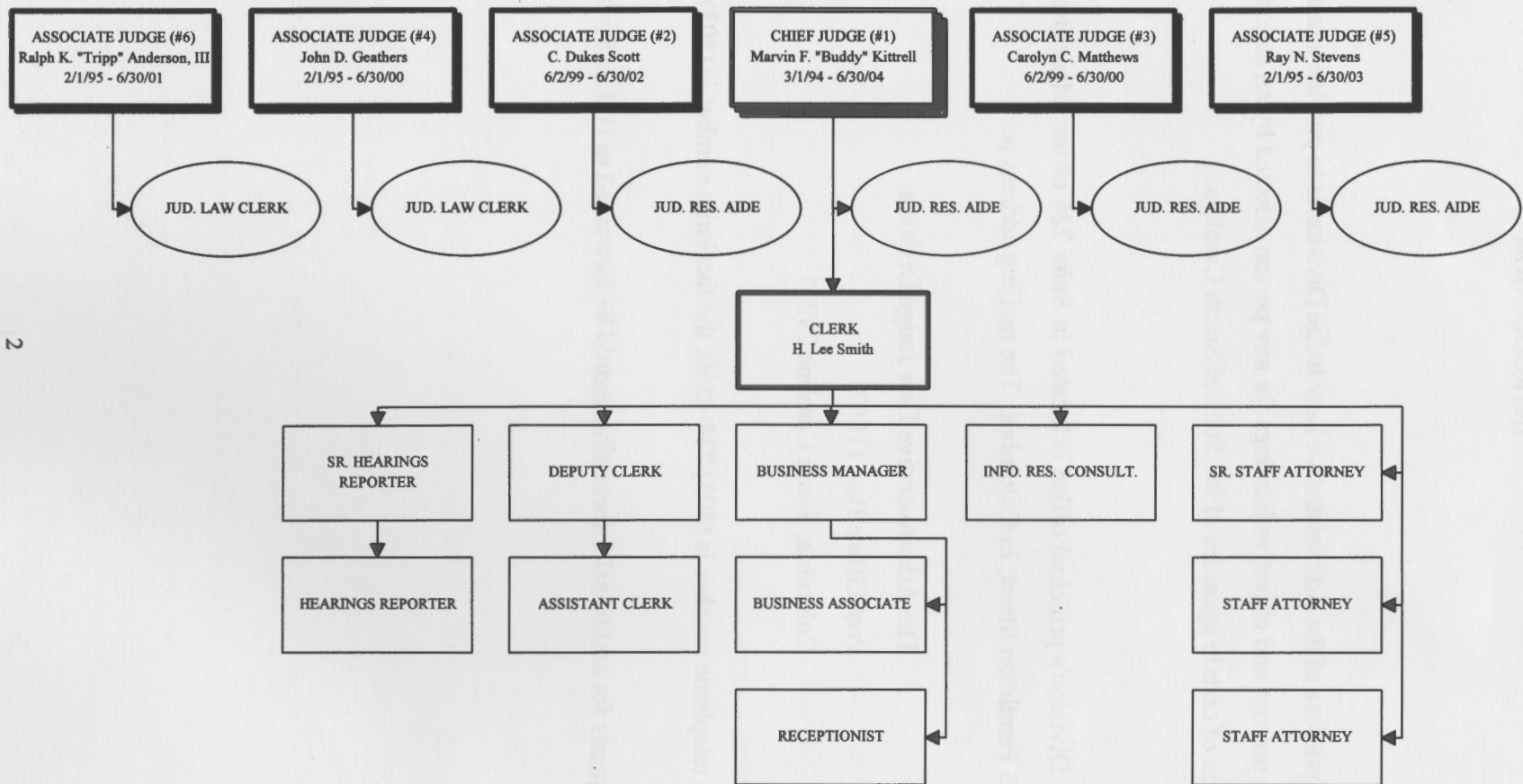
The Division's principal office is located in Suite 224 of the Edgar Brown Building, 1205 Pendleton Street, in Columbia. The mailing address is:

The Administrative Law Judge Division
Post Office Box 11667
Columbia, South Carolina 29211

The telephone number is (803) 734-0550; the facsimile number is (803) 734-6400.

Requests for additional information should be forwarded to H. Lee Smith, Clerk.

ADMINISTRATIVE LAW JUDGE DIVISION



BIOGRAPHICAL INFORMATION FOR ADMINISTRATIVE LAW JUDGES

Marvin F. "Buddy" Kittrell (Seat 1, Chief Judge, 2004) b. October 3, 1941 at Daytona Beach, Fla.; s. B.F. and Mamie (Lewis) Kittrell; g. Furman University, B.A. cum laude, 1963; University of South Carolina School of Law, J.D., 1971; University of Florida School of Law, Master of Laws in Taxation, 1976; m. Kathryn Williams; 2 children, Erika Williams and Benjamin Christian; admitted to South Carolina Bar, 1971; Tau Kappa Epsilon; Past Pres., Newberry County Bar Assn.; Past Pres., Rotary Club of Newberry; member, Christ Episcopal Church, Greenville; Greenville County Bar Assn.; Nat. Conf. of Administrative Law Judges, Judicial Division, American Bar Assn.; President-elect, Nat. Assn. of Administrative Law Judges; Past President, Nat. Association of Central Panel Directors and Chief Administrative Law Judges; National Judicial College, 1993, 1995, 1999; private practice, Dennis and Dennis Law Firm, Moncks Corner, 1971-1973; Griffith and Kittrell Law Firm, Newberry, 1977-1990; Trust Officer, South Carolina National Bank, Columbia and Charleston, 1973-1977; Commissioner, S.C. Workers' Compensation Comm., 1990-94; Military Service: U.S. Navy, 1965-68, South Vietnam (1968) -- Inshore Undersea Warfare Group; elected Chief ALJ seat no. 1 February 23, 1994, serving continuously since.

Judicial Research Aide: Coretta Simmons

C. Dukes Scott (Seat 2, 2002) b. August 22, 1949 at Orangeburg; s. Claude W. and Beth (Dukes) Scott; g. Clemson University, B.S., 1971; University of South Carolina School of Law, J.D., Cum Laude 1974; m. Sept. 10, 1978, Judy McCoy; admitted to South Carolina Bar, 1974; member, Elder, Forest Lake Presbyterian Church; private practice, Leventis, Scott and Dickson, 1974-1981; Staff Counsel, Public Service Commission of South Carolina, 1981-1985; private practice, Willoughby and Scott, 1985-1986; Executive Assistant to Commissioners, General Counsel and Deputy Executive Director, Public Service Commission, 1986-1994; elected Commissioner, District 2, Public Service Commission, 1994, continued service to 1999; elected June 2, 1999, to ALJ seat no. 2 to fill the unexpired term of Stephen P. Bates (resigned January 27, 1999 to serve as Deputy Director, South Carolina Department of Public Safety).

Judicial Research Aide: Pamela W. Fusco

Carolyn C. Matthews (Seat 3, 2000) b. November 8, 1950 in Columbia; d. the late Walter Richardson and Martha (Cook) Matthews; g. Furman University, B.A. 1972; University of South Carolina School of Law, J.D., 1978; m. John Andrew McAllister, Jr.; 3 children, Martha Austin Adams, Anne Leigh McAllister and Sarah Elizabeth McAllister; Order of Wig and Robe; American Jurisprudence Award, Torts, Fall, 1975; Supreme Court Staff Attorney 1978-81; Law Clerk to Supreme Court Justice George T. Gregory, Jr. 1981-82; Assistant Attorney General, State of South Carolina 1982-1986;

Counsel, South Carolina House of Representatives Judiciary Committee 1986-1988; Partner, Nelson Mullins Riley & Scarborough 1988-1996; Partner, Woodward Cothran and Herndon 1996-1998; S. C. Bar House of Delegates 1998-1999; Chair, Richland County Bar Legal Services Committee 1996-1999; Board of Directors, South Carolina Women Lawyers Association 1995-present; 1993 Graduate, Leadership South Carolina; elected June 2, 1999, to ALJ seat no. 3 to fill the unexpired term of Alison Renee Lee (elected February 10, 1999, Circuit Judge at-large, Seat No. 11).

Judicial Research Aide: Vacant

John D. Geathers (Seat 4, 2000) b. April 10, 1961 at Georgetown, S.C.; s. John H. and Gardenia (Graham) Geathers; g. University of South Carolina, B.A., 1983; University of South Carolina School of Law, J.D., 1986; m. Doris Williams; one child, Lydia Kaden; admitted to South Carolina Bar, 1986 and North Carolina State Bar, 1992; Senior Staff Counsel, Office of Senate Research, 1987-1995; elected to ALJ seat no. 4 May 25, 1994, serving continuously since.

Judicial Law Clerk: Toyya B. Gray

Ray N. Stevens (Seat 5, 2003) b. October 7, 1949 at Toccoa, Georgia; s. John Paul and Wilma Ruth (Wilburn) Stevens; g. University of South Carolina, B.S. in Accounting, 1971; University of South Carolina, M.B.A., 1975; University of South Carolina School of Law, J. D., 1977; William and Mary School of Law, Master of Law in Taxation, 1980; Beta Gamma Sigma; Omicron Delta Epsilon; m. Janice Louise Shapiro; three children, Ryan Nelson, Alan Austin, and Leah Suzanne; admitted to South Carolina Bar, 1978; private practice, Chattanooga, Tennessee, 1977-78; Internal Revenue Service, 1978-79; Chief Deputy Attorney General for the State of South Carolina, 1980-1995; Richland County Bar Association; member Advisory Board, Vanderbilt University's Paul J. Hartman State & Local Tax Forum; member, Sunday school teacher, and deacon of First Baptist Church, Columbia; elected to ALJ seat no. 5 March 21, 1995, serving continuously since.

Judicial Research Aide: Beverly H. Anderson

Ralph K. "Tripp" Anderson, III (Seat 6, 2001) b. October 13, 1959 at Florence, S.C.; s. Ralph K., Jr. and Loretta Anderson; g. Frances Marion University, B.A. cum laude, 1980; University of South Carolina School of Law, J.D., 1984; admitted to South Carolina Bar, 1984; Assistant Attorney General for the State of South Carolina, 1984-1995; mem. Shandon Baptist Church; Alpha Tau Omega; Phi Kappa Phi Honor Society; selected as one of Francis Marion University's most distinguished alumni; elected to ALJ seat no. 6 May 25, 1994, serving continuously since.

Judicial Law Clerk: Elizabeth Boozer

GENERAL INFORMATION ABOUT THE ADMINISTRATIVE LAW JUDGE DIVISION

The Administrative Law Judge Division is an autonomous quasi-judicial agency within the executive branch of state government. It was created by Act 181 of 1993, widely known as the "Restructuring Act." Although the provisions creating the Division became effective July 1, 1993, the first Administrative Law Judges were not elected until February 23, 1994, with terms beginning March 1, 1994.

The six Administrative Law Judges are elected by a joint session of the General Assembly for a term of office of five years. The initial terms were staggered, with the Chief Judge (Seat 1) and Seats 2 and 3 beginning March 1, 1994, and Seats 4, 5 and 6 beginning February 1, 1995.

Candidates for each seat must be screened by the Judicial Merit Selection Commission, and must meet the qualifications required of justices and judges set forth in Article V of the South Carolina Constitution: each candidate must be a resident of the United States and of South Carolina, be at least 26 years of age, have been licensed to practice law for a minimum of five years, and have been a resident of South Carolina for at least five years preceding election.

Rules governing practice and procedure before the Division shall be promulgated by the Division subject to review by the General Assembly. Such rules must be consistent with the rules of procedure used in the Courts of Common Pleas, and not otherwise expressed in the Administrative Procedures Act (APA). The Division's procedures were originally governed by the South Carolina Rules of Civil Procedure, supplemented by Temporary Operating Procedures adopted by the Division. Permanent Rules of Procedure were promulgated effective May 3, 1995, with annual amendments in 1996, 1997 and 1998.

The Administrative Law Judge Division's contested case hearings and proceedings are open to the public unless confidentiality is allowed or required by law. A written order is issued for every final decision. Further, under the APA, Administrative Law Judges issue injunctions and enforce subpoenas, and have the same power at chambers or in open hearing as do circuit court judges, and the power to issue those remedial writs as are necessary to give effect to the Division's jurisdiction.

The Administrative Law Judge Division has jurisdiction over three types of matters: contested cases, appeals, and regulation hearings.

Contested cases. Administrative Law Judges preside as the fact finder in all contested cases involving executive branch departments in which a single hearing officer is authorized or permitted by law or regulation to hear and decide such cases. Exempted are cases arising under the Occupational Safety and Health Act, matters provided for under Title 56 of the South Carolina Code of Laws, and hearings prescribed for or mandated by federal law or regulation. Also falling outside of the

GENERAL INFORMATION (CONTINUED)

Division's jurisdiction are the judicial or quasi-judicial functions of the Workers' Compensation Commission, the Employment Security Commission, the Public Service Commission, and the Human Affairs Commission.

Appeals. Administrative Law Judges hear appeals from final decisions of contested cases before professional and occupational licensing boards or commissions within the Department of Labor, Licensing and Regulation. The Division also has appellate jurisdiction to review certain final decisions of various other boards or departments.

Regulation Hearings. Administrative Law Judges preside over public hearings held during the promulgation of regulations by a department for which the governing authority is a single director. Afterwards, the Judge provides the General Assembly with written findings as to the need and reasonableness of the proposed regulations.

A schedule for systematically rotating the assignment of cases to the judges was implemented by the Chief Judge on July 1, 1995. Based on caseload information available at the time, the several types of cases heard by the Division were divided into two groupings of approximate equal caseload. Three judges are assigned to each of the two groupings on a quarterly basis. The objective of the schedule is to maintain balance and diversity among the judges' caseload. Case Type Grouping I contains all DOI, LLR, and DNR matters, all ABC and video game / bingo violations, all tax cases, and all regulation hearings. Case Type Grouping II contains all HHS, DHEC cases (including OCRM), ABC applications, and DSS cases.

GENERAL INFORMATION (CONTINUED)

The Division has time standards to evaluate how promptly cases are disposed. Most matters should be decided within 90, 120 or 180 days from the date of filing. For the case types included in "Category I", the objective is to dispose of most of these cases within 90 days, or to maintain an average age (between filing and disposition) of 90 days or less. In "Category II" the objective is 120 days and in "Category III" the objective is 180 days. The following table indicates for each case type and category the total number of cases disposed, the average age of those cases at the time of disposition, and the percentage of cases which were disposed within the tentative time frames. As with any adjudicatory process, there are legitimate reasons for a case to require additional time; scheduling difficulties, complicated research efforts, motions for reconsideration, and procedural delays prevent cases from being disposed within the desired time frames.

	Total Cases Disposed	Avg. Age at Disposition	% Meeting Objective
Category I Case Types: Objective = 90 Days	310	88.0	59.0%
Insurance rate cases [DOI]	13	60.2	84.6%
Insurance agent application/disciplinary cases [DOI]	18	128.3	50.0%
Miscellaneous insurance cases [DOI]	4	103.8	50.0%
Wage disputes [LLR]	13	62.7	46.2%
Hunting/fishing license revocations/suspensions [DNR]	2	63.0	100.0%
Coastal fisheries license revocations/suspensions [DNR]	2	128.0	0.0%
Alcoholic beverage license applications/renewals [DOR]	148	87.2	58.8%
Alcoholic beverage license violations [DOR]	51	114.9	33.3%
Concealable weapons permitting cases [SLED]	3	85.3	66.7%
Injunctive relief hearings	18	42.6	88.9%
Public hearings for proposed regulations	38	73.1	81.6%
Category II Case Types: Objective = 120 Days	96	136.7	51.1%
Health licensing cases [DHEC]	17	135.4	58.8%
OCRM cases [DHEC]	54	139.4	50.0%
Appeals from professional licensing boards [LLR]	15	136.7	40.0%
Removal of children from foster care [DSS]	10	124.6	60.0%
Category III Case Types: Objective = 180 Days	406	123.9	79.3%
Certificate of need cases [DHEC]	11	135.5	72.7%
Environmental permitting cases [DHEC]	80	128.2	77.5%
Medicaid Appeals [HHS]	20	101.6	85.0%
Video games and bingo violations [DOR]	231	115.6	85.3%
State tax cases [DOR]	15	163.2	53.3%
County property tax (real and personal) cases [DOR]	46	152.6	60.9%
Appeals of day-care or foster care license revocations [DSS]	3	122.7	66.7%
ALL CASE TYPES	812	111.7	68.2%

NOTE: DOI: Dept. of Insurance; LLR: Dept. of Labor, Licensing and Regulation; DNR: Dept. of Natural Resources; DOR: Dept. of Revenue; DHEC: Dept. of Health and Environmental Control; HHS: Dept. of Health and Human Services; DSS: Dept. of Social Services.

GENERAL INFORMATION (CONTINUED)

Since 1997, the Final Orders and Decisions of the Administrative Law Judge Division have been posted on the Internet. The Division's home page address is: www.law.sc.edu/alj/alj.htm and new orders are added every week. The Coleman Karesh Law Library is providing this service to the Division and to the public.

The orders are organized in two ways. First, "Recent Decisions" includes those which have been posted during the previous four weeks. This is provided as a convenience to those who may wish to download these files on a regular basis.

Second, "Decisions by Agency" is the main body of orders. Listed are all nine agencies which have transmitted contested cases or appeals to the Division, as well as topics for requests for injunctive relief, and all hearings on proposed regulations. Then, within each agency group, the various sub-groups of orders are listed according to case type. A search tool is also provided at the end of each page's list of cases.

DESCRIPTIONS OF TYPES OF CASES

CASE TYPES ACTUALLY FILED BY JUNE 30, 1998. During the year, a wide variety of cases were filed with the Division. The categories of case types are described below. Tables providing statistics regarding the number of filings and dispositions for each case type are located later in this report.

Department of Health and Environmental Control (DHEC)

Health Licensing Cases. Health care facility license cases arise when DHEC has decided to revoke or not renew, or impose fines against a particular home health care facility, residential care facility, or community care home licensee. Typical issues in these cases include whether the licensee failed to comply with DHEC regulations pertaining to medical reports of residents, resident individual care plans, maintenance, general housekeeping, medicines, medication records, food service, and water temperature control. Enforcement cases arise when a permitted entity engages in practices that are prohibited under the statutes that govern the permitted activity. Upon discovering a violation, DHEC initiates an action to suspend or revoke a license (or certificate), or to impose monetary penalties against a licensee. Examples of such cases include actions brought for violations of DHEC regulations involving Radiation Control, relating to the proper storage, treatment, and preparation of food, and pertaining to proper procedures to be followed by Emergency Medical Services personnel.

Certificate of Need Cases. These cases arise when DHEC decides to issue or deny a Certificate of Need (CON) to an applicant. A party aggrieved by DHEC's decision may seek redress by asking for a contested case before the Division. The primary issue in CON cases is whether a proposed project is consistent with the State Health Plan. Examples of issues presented in a typical CON case are whether the proposed project would have caused unnecessary duplication of existing services and facilities that are currently underutilized, whether the use of current facilities would have been more efficient and cost-effective, and whether approval of the proposed project would adversely impact existing providers.

Environmental Permitting Cases. Application cases arise when individuals or entities make application for a permit or seek modification of an existing permit. After a permit is issued or denied by DHEC, a party aggrieved by the decision may seek a contested case to determine if the permit should be granted. These cases typically involve permits for discharge of pollutants into water (NPDES permits), permits for discharge of pollutants into the air, permits for solid waste disposal facilities, permits for septic tanks, permits for use of groundwater, and navigable waters permits. Enforcement cases arise when unauthorized persons engage in an activity that requires the acquisition of a permit prior to commencement of the activity. Additionally, environmental enforcement cases

DESCRIPTIONS OF TYPES OF CASES (CONTINUED)

arise when a permitted entity engages in activities that are prohibited under a particular statute. These cases include violations of the South Carolina Infectious Waste Management Act, the South Carolina Coastal Zone Management Act, the South Carolina Pollution Control Act, and the South Carolina Mining Act.

OCRM (Office of Ocean and Coastal Resource Management) Cases. These cases arise when individuals or entities seek permits for construction of docks, piers, bridges/causeways, and buildings that will alter the critical areas of South Carolina's coastal zone. Typical issues include whether the prospective permittee possesses property that is suited for the construction of a dock\pier and whether competing geographic and environmental concerns (as expressed in DHEC's regulations) dictate that no structure be built or that certain conditions be placed on a proposed project.

Department of Health and Human Services (HHS)

Medicaid Appeals. The Division conducts appeals from HHS decisions concerning the eligibility of individuals for Medicaid (disability determinations and cases involving individuals who have applied for Medicaid coverage of institutional care or care alternative to institutionalization); and recoupment of money from Medicaid providers based on financial audits. The issues for determination in these cases are whether HHS acted properly according to the criteria established in the Social Security Act and the State Plan under Title XIX of the Social Security Act.

Department of Insurance (DOI)

Insurance Rate Cases. The Division hears all requests by insurance companies for rate increases. The issue for determination in all insurance rate increase requests is whether the rate increase is excessive, inadequate, or unfairly discriminatory.

Agent Licensing and Disciplinary Cases. The Division hears cases involving disciplinary proceedings and license revocation proceedings against insurance agents for alleged violations of the statutes and regulations governing their conduct. Issues for determination include whether the agent has been convicted of a crime of moral turpitude, has violated an applicable statute or regulation, or has willfully deceived or dealt unjustly with citizens of the State.

Appeals. Section 38-3-210 of the South Carolina Code of Laws provides that the Division shall hear appeals from "any order or decision made, issued, or

DESCRIPTIONS OF TYPES OF CASES (CONTINUED)

executed by the director or his designee." Examples of decisions which are appealable to the Division are decisions to terminate approval of individual insurance policy forms; decisions to withdraw approval of certain group accident and health insurance forms; determinations that the exercise of subrogation by an insurer is inequitable and commits an injustice to the insured; denials of reinsurance intermediary licenses; and determinations involving the imposition of premium taxes.

Department of Labor, Licensing and Regulation (LLR)

Wage Disputes. These cases involve violations of the South Carolina Payment of Wages Law. Generally, the issues that arise are whether employers have either failed to pay wages (either regular wages, minimum wage, or overtime pay) or failed to pay the full amount of wages due to employees.

Appeals from Professional Licensing Boards. These appeals from decisions of professional and occupational licensing boards and commissions in licensing and disciplinary matters involve issues of due process violations (including insufficient notice of charges and abuse of discretion), harshness of the sanctions imposed (suspension, revocation, restriction, or limitation), and lack of evidence to support the licensing board's findings.

Department of Natural Resources (DNR)

Hunting/Fishing License Revocations/Suspensions and Coastal Fisheries License Revocations/Suspensions. These cases arise when DNR seeks to suspend or revoke a license for a violation of the hunting and fishing or coastal fisheries point systems. Generally, the issue in these cases is whether DNR properly assessed points against a licensee, and whether the licensee has accumulated the eighteen points necessary to require revocation of his or her license.

Department of Revenue and Taxation (DOR)

Alcoholic Beverage License Applications/Renewals. These cases arise when DOR issues or denies a license to sell alcoholic beverages. Individuals (usually churches or neighborhood associations) often protest issuance of the license, which results in DOR transferring the matter to the Division for a contested case hearing. Typical issues are those involving the suitability of the location (proximity to residences, churches, schools, and playgrounds; adequacy of law

DESCRIPTIONS OF TYPES OF CASES (CONTINUED)

enforcement in the area; past history of the location, etc.), and those involving the eligibility of the applicant (whether the applicant is of good moral character; any past convictions for crimes, any past license revocations).

Alcoholic Beverage License Violations. These cases arise when DOR cites a licensee for a violation of the laws pertaining to the regulation of alcohol licenses. Typical issues include whether the establishment sold alcoholic beverages to minors; whether a private club sold alcoholic beverages to non-members; or whether the establishment sold alcoholic beverages during restricted hours.

Video Games and Bingo Violations. Video games cases arise when establishments are cited for violations of the South Carolina Video Game Machines Act. Typical issues in these cases include whether the business or businesses in question constitute a "single place or premises" in which no more than five video poker machines are allowed; and whether a business is in violation of the portion of the Act which prohibits advertising of video poker. Bingo cases arise when an establishment is cited by the Department for non-compliance with provisions of the Bingo Act. Typical issues are whether nonprofit associations and their promoters return to players the appropriate amount in prize money, whether associations and promoters deposit all funds derived from the conduct of bingo in the bingo account, and whether the Department of Revenue has been informed of and approved all employees of associations and promoters.

State Tax Cases. These cases are initiated by either the taxpayer or DOR. A taxpayer may question an assessment made by DOR, or DOR may seek a determination regarding whether a taxpayer has made accurate reports on his or her tax returns. These cases involve all taxes administered by DOR, including sales and use taxes, income taxes, and business license taxes. The issues in these cases include whether the taxpayer has taxable sales that are not reflected on sales tax returns, and whether the taxpayer has overstated deductions or under reported income on a return.

County Property Tax (Real and Personal) Cases. These cases arise when a taxpayer questions a tax assessment made against his or her property. In these cases, typical issues concern whether the property in question has been properly valued by the county assessor or auditor for assessment purposes, whether the comparable properties utilized in making the assessment were proper comparables, and whether the appropriate valuation method was employed to assess the property's value (including, but not limited to the cost method, the market sales method, and the income method).

DESCRIPTIONS OF TYPES OF CASES (CONTINUED)

Department of Social Services (DSS)

Appeals of Day-care License Revocations and Foster Home License Revocations. These appeals involve the review of decisions of DSS involving the licensing of child day-care centers under the Child Day Care Facilities Law. Also involved are appeals of decisions of the Fair Hearing Committee conducted under the "substantial evidence" standard of review. They arise when a party is aggrieved by a Committee decision not to renew or to revoke a foster home license. Typical issues include whether there exists a substantiated history of child abuse and neglect, and whether the foster family failed to maintain minimum licensing standards.

Appeals of Decisions Regarding Welfare Benefits. These appeals involve decisions of the DSS Fair Hearing Committee to deny, terminate, or reduce welfare benefits. Typical issues involve whether DSS properly applied the criteria established in the Family Independence Program.

Removal of Children from Foster Homes cases are contested cases involving decisions of the DSS Fair Hearing Committee to remove children from foster care.

State Law Enforcement Division (SLED)

The Division conducts contested case hearings to review denials of *Applications for Concealable Weapons Permits* pursuant to the Law Abiding Citizens Self-Defense Act of 1996.

Injunctive Relief Hearings

Requests for TRO's and non-emergency injunctive relief. The Division conducts motion hearings on requests for temporary equitable relief during the pendency of an action. These cases typically arise in appeals before the Division, but are potentially available in a wide variety of cases. Generally, these cases are brought pursuant to a motion by one of the parties to restrain another party for a short period of time, until a decision on the merits is rendered. The party requesting the temporary relief must show actual or threatened injury.

DESCRIPTIONS OF TYPES OF CASES (CONTINUED)

Regulation Public Hearings

Public Hearings for Proposed Regulations. The Division conducts hearings on proposed regulations submitted by departments governed by a single director, pursuant to S.C. Code Ann. §1-23-111. Following a regulation hearing, the administrative law judge must issue a written report which includes findings as to the need and reasonableness of the proposed regulation. The administrative law judge may suggest modifications to the proposed regulations in the event of a finding of lack of need or reasonableness.

CASE TYPES NOT FILED BY JUNE 30, 1998. There are various other types of matters within the Division's jurisdiction, but which have *not* been brought before the Division prior to July 1, 1998. These are briefly described below:

Department of Disabilities and Special Needs (DSN): The Division conducts appeals from decisions of DSN to deny, suspend, or revoke licenses of programs for the mentally retarded or those with head or spinal cord injuries. The issue for determination in these cases is whether the department acted properly in denying, suspending, or revoking a license for alleged violation of the statutes governing the applicable program.

Department of Labor, Licensing and Regulation, Contested Cases: *Elevator Cases* involve petitions for administrative review of citations, penalties, or other determinations of the Department under the South Carolina Elevator Code. *Amusement Ride* cases arise under the South Carolina Amusement Rides Safety Code. The issues involved are whether the owner of an amusement park ride has violated the provisions of the code, or whether the owner has brought the ride into compliance following notice of a violation. The issues for determination in *Child Labor Cases* concern whether an employer has violated a child labor regulation.

Department of Labor, Licensing and Regulation, Appeals: *State Fire Marshal* cases involve appeals from decisions of the State Fire Marshal condemning property; ordering defects to be removed or remedied; assessing costs for the removal of hazards by repair or demolition; and with regard to the revocation, suspension, or denial of licenses and permits for the use, sale, handling, and storage of explosive materials. The Division hears appeals from decisions of the *Modular Buildings Board of Appeals* to suspend, revoke, or otherwise restrict the certification of any modular building unit. There are also appeals from final

DESCRIPTIONS OF TYPES OF CASES (CONTINUED)

decisions of the *Board for Barrier-Free Design* denying a waiver or modification of barrier-free design standards. Finally, the Division conducts appeals from decisions of the *Boards of Commissioners of Pilotage* regarding suspension, revocation or restriction of harbor pilots' licenses.

Department of Social Services: *Child Welfare Agencies* appeals involve the review of licensing decisions under the South Carolina Children's Code.

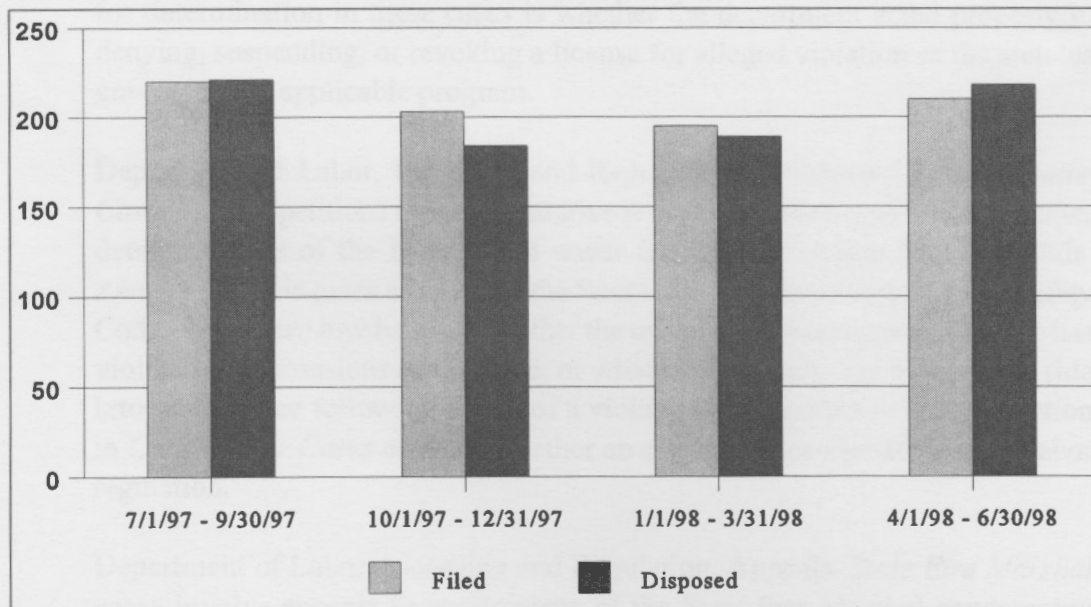
State Budget and Control Board, South Carolina Retirement Systems: *Qualified Domestic Relations Orders*. The Division conducts appeals from determinations of the Administrator of the South Carolina Retirement System concerning whether a domestic relations order is a "qualified domestic relations order" within the meaning of Section 9-18-10(9) of the South Carolina Code of Laws. If an order is determined to be a "qualified domestic relations order," then the retirement system must disburse benefits to an alternate payee rather than to the person who paid into the retirement system.

CASELOAD INFORMATION

Total Workload by Quarter.

The table and chart below compare for each quarter the number of cases filed with the Division, and the number of final decisions issued.

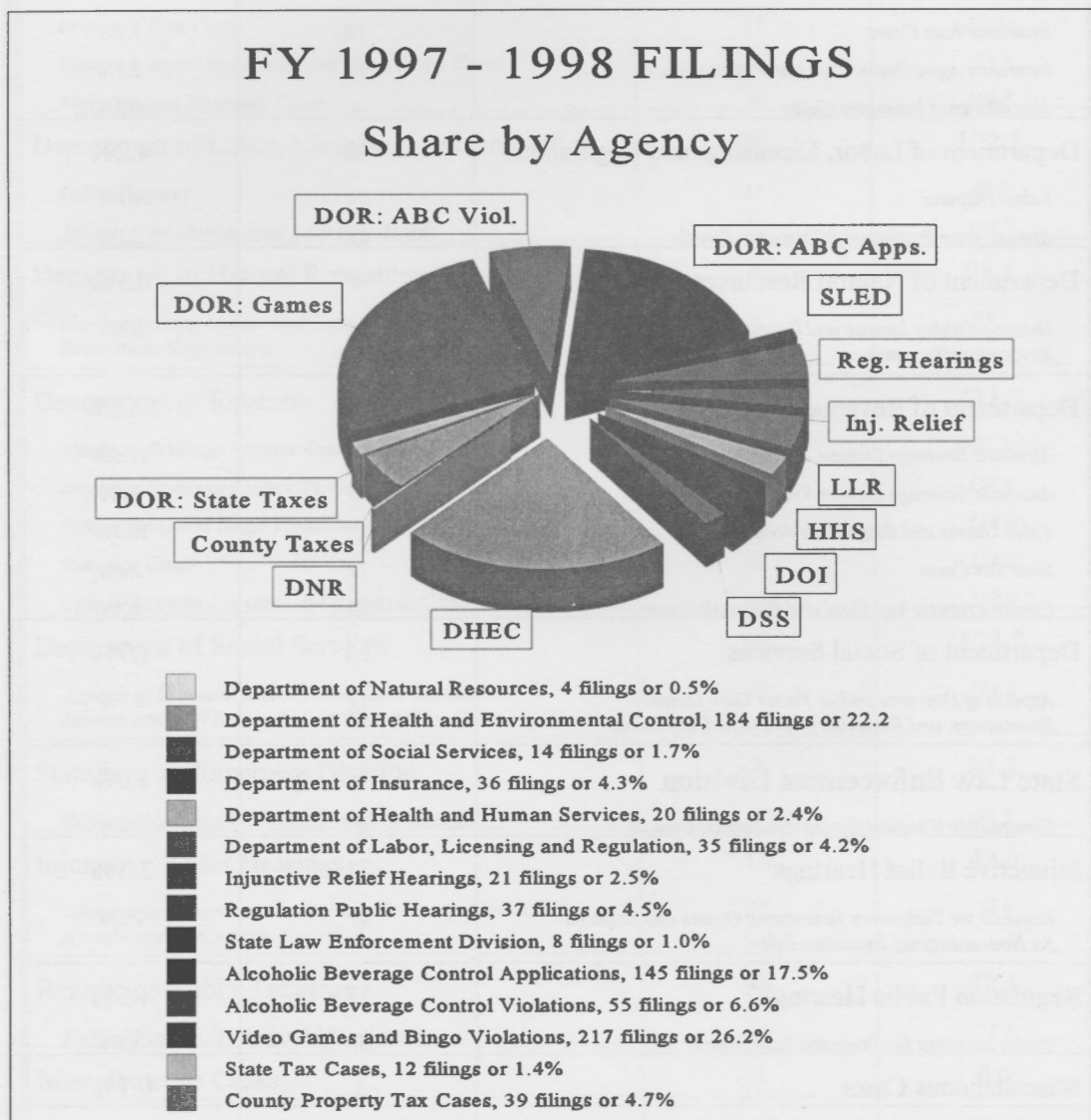
WORKLOAD BY QUARTER		
Quarter	Number of Cases Filed	Number of Final Decisions
July 1 -- September 30, 1997	220	221
October 1 -- December 31, 1997	203	184
January 1 -- March 31, 1998	195	189
April 1 -- June 30, 1998	210	218
TOTAL for FY 1997-1998	828	812



CASELOAD INFORMATION (CONTINUED)

Filings by Agency and by Case Type.

Filings for contested cases and appeals during FY 1997-98 were received from eight agencies; requests for injunctive relief and public hearings on proposed regulations were requested from those agencies and various other agencies. More than half of all cases involved matters from the Department of Revenue, *i.e.*, cases previously heard by the Alcoholic Beverage Control Commission or by the Tax Commission. The pie chart on this page illustrates each agency's share of last year's filings. Note that the five pieces of the pie which are somewhat *less* exploded represent cases from the Department of Revenue and county tax cases. The table on the following page provides greater detail for the number and percentage share of filings for each case type within the total for each agency.



CASELOAD INFORMATION (CONTINUED)

FY 1997-1998 FILINGS BY CASE TYPE		
Agency / Type of Case	Number Filed	Percentage Share
Department of Health and Environmental Control	184	22.2%
<i>Health Licensing Cases</i>	17	2.1%
<i>Certificate of Need Cases</i>	18	2.2%
<i>Environmental Permitting Cases</i>	83	10.0%
<i>OCRM Cases</i>	66	8.0%
Department of Health and Human Services	20	2.4%
<i>Medicaid Appeals</i>	20	2.4%
Department of Insurance	36	4.3%
<i>Insurance Rate Cases</i>	10	1.2%
<i>Insurance Agent Application and Violation Cases</i>	22	2.7%
<i>Miscellaneous Insurance Cases</i>	4	0.5%
Department of Labor, Licensing, and Regulation	35	4.2%
<i>Labor Disputes</i>	14	1.7%
<i>Appeals from Professional Licensing Boards</i>	21	2.5%
Department of Natural Resources	4	0.5%
<i>Hunting/Fishing License and Coastal Fisheries License Revocations/Suspensions</i>	4	0.5%
Department of Revenue	468	56.5%
<i>Alcoholic Beverage License Applications/Renewals</i>	145	17.5%
<i>Alcoholic Beverage License Violations</i>	55	6.6%
<i>Video Games and Bingo Violations</i>	217	26.2%
<i>State Tax Cases</i>	12	1.4%
<i>County Property Tax (Real and Personal) Cases</i>	39	4.7%
Department of Social Services	14	1.7%
<i>Appeals of Day-care and/or Foster Care License Revocations, and Removals from Foster Care Cases</i>	14	1.7%
State Law Enforcement Division	8	1.0%
<i>Concealable Weapons Permit Application Denials</i>	8	1.0%
Injunctive Relief Hearings	21	2.5%
<i>Requests for Temporary Restraining Orders and Requests for Non-emergency Injunctive Relief</i>	21	2.5%
Regulation Public Hearings	37	4.5%
<i>Public Hearings for Proposed Regulations</i>	37	4.5%
Miscellaneous Cases	1	0.1%
TOTAL FILINGS	828	100%

CASELOAD INFORMATION (CONTINUED)

FY 1997-1998 DISPOSITIONS BY CASE TYPE		
Agency / Type of Case	Number Disposed	Average Age
Department of Health and Environmental Control	162	133.2
<i>Health Licensing Cases</i>	<i>17</i>	<i>135.4</i>
<i>Certificate of Need Cases</i>	<i>11</i>	<i>135.5</i>
<i>Environmental Permitting Cases</i>	<i>80</i>	<i>128.2</i>
<i>OCRM Cases</i>	<i>54</i>	<i>139.4</i>
Department of Health and Human Services	20	101.6
<i>Medicaid Appeals</i>	<i>20</i>	<i>101.6</i>
Department of Insurance	35	100.2
<i>Insurance Rate Cases</i>	<i>13</i>	<i>60.2</i>
<i>Insurance Agent Application and Disciplinary Cases</i>	<i>18</i>	<i>128.3</i>
<i>Miscellaneous Insurance Cases</i>	<i>4</i>	<i>103.8</i>
Department of Labor, Licensing, and Regulation	28	102.3
<i>Labor Disputes</i>	<i>13</i>	<i>62.7</i>
<i>Appeals from Professional Licensing Boards</i>	<i>15</i>	<i>136.7</i>
Department of Natural Resources	4	95.5
<i>Hunting/Fishing License and Coastal Fisheries License Revocations/Suspensions</i>	<i>4</i>	<i>95.5</i>
Department of Revenue	491	111.9
<i>Alcoholic Beverage License Applications/Renewals</i>	<i>148</i>	<i>87.2</i>
<i>Alcoholic Beverage License Violations</i>	<i>51</i>	<i>114.9</i>
<i>Video Games and Bingo Violations</i>	<i>231</i>	<i>115.6</i>
<i>State Tax Cases</i>	<i>15</i>	<i>163.2</i>
<i>County Property Tax (Real and Personal) Cases</i>	<i>46</i>	<i>152.6</i>
Department of Social Services	13	124.2
<i>Appeals of Day-care and/or Foster Care License Revocations, and Removals from Foster Care Cases</i>	<i>13</i>	<i>124.2</i>
State Law Enforcement Division	3	85.3
<i>Concealable Weapons Permit Application Denials</i>	<i>3</i>	<i>85.3</i>
Injunctive Relief Hearings	18	42.6
<i>Requests for Temporary Restraining Orders and Requests for non-emergency injunctive relief</i>	<i>18</i>	<i>42.6</i>
Regulation Public Hearings	38	73.1
<i>Public Hearings for Proposed Regulations</i>	<i>38</i>	<i>73.1</i>
Miscellaneous Cases	0	0.0
TOTAL DISPOSITIONS	812	111.7

BUDGET INFORMATION

Expense Item	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99
Personal Services	\$1,074,779	\$1,081,477	\$1,117,908	\$1,145,682
Other Operating	\$336,477	\$336,477	\$320,972	\$319,492
Employee Benefits	\$179,941	\$216,808	\$238,978	\$242,248
Other Funds	\$140,792	\$167,815	\$193,055	\$202,974
TOTAL	\$1,731,989	\$1,802,577	\$1,870,913	\$1,910,396
<i>FTE's</i>	<i>24.00</i>	<i>24.00</i>	<i>24.00</i>	<i>24.00</i>

FY 1995-96. The total budget was \$1,731,989. The base increase over the previous year's appropriation annualized salaries which were originally appropriated for only part of the year, and fully established an operating budget sufficient to support the Division for an entire fiscal year with a full contingent of judges and staff. Other Funds included \$24,628 as general carry forward from the previous year, \$70,962 carried forward from the Prudential Bache settlement, \$43,565 for the Employee Pay Plan allocation, and \$1,637 from photocopying costs revenue.

FY 1996-97. The total budget is \$1,802,577. The base increase over the previous year's appropriation reflects the previous year's Employee Pay Plan allocation distributed into Personal Services and Employee Benefits. Other Funds includes \$132,244 as general carry forward from the previous year, \$32,137 for the current year Employee Pay Plan allocation, and \$3,434 from unspent photocopying costs revenue.

FY 1997-98. The total budget is \$1,870,913. The base increase over the previous year's appropriation reflects the previous year's Employee Pay Plan allocation distributed into Personal Services and Employee Benefits. Other Funds includes \$163,476 as general carry forward from the previous year, \$24,044 for the current year Employee Pay Plan allocation, \$15 from unspent photocopying costs revenue, and \$5,520 for a facilities rent rate increase.

FY 1998-99. The total budget is \$1,910,396. The base increase over the previous year's appropriation reflects the previous year's Employee Pay Plan allocation distributed into Personal Services and Employee Benefits. Other Funds includes \$167,786 as general carry forward from the previous year and \$35,188 for the current year Employee Pay Plan allocation.

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